

**OKLAHOMA COMMISSION ON CHILDREN AND YOUTH  
OFFICE OF JUVENILE SYSTEM OVERSIGHT**

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**Report Release Date: May 20, 2014**

**Review of the Death of Emma Beth Warmberodt  
of Washington County, Oklahoma**

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**General Information**

On March 16, 2012, the Office of Juvenile System Oversight (OJSO) received a request for a public report regarding the death of one-year-old Emma Beth Warmberodt. A Criminal Felony charge of First Degree Murder was filed in Washington County District Court on March 14, 2012, against Marcus Mitchell, Emma's stepfather. A Criminal Felony Accessory After the Fact First Degree Murder and Child Neglect charges were filed in Washington County District Court on March 14, 2012, against Juanchellee Fitch, the step-grandmother of Emma Beth. A criminal Felony Child Neglect and Enabling Child Abuse by Injury charges were filed in Washington County District Court on March 14, 2010, against Ashley Williamson-Mitchell, the child's mother.

**Authorization**

The following is a summary of the actions taken by the Oklahoma Department of Human Services (OKDHS); the dates and outcome of investigations and actions taken by the OKDHS; the actions taken by the district attorney; the dates and summary of judicial proceedings; and the rulings of the court, as authorized by 10A O.S. Section 1-6-105.

**Identifiers:**

Child's Name:	Emma Beth Warmberodt
Date of Birth:	November 12, 2010
Date of Death:	February 14, 2012
Persons Responsible for the Child:	Ashley Williamson-Mitchell, biological mother Marcus Mitchell, stepfather Juanchellee Fitch, step-grandmother

The Oklahoma Commission on Children and Youth (OCCY) did not become aware of this case until after the death of Emma Beth Warmberodt.

## **Criminal Charges**

The On Demand Court Records (ODCR) system documented that charges were filed against Ashley Williamson-Mitchell, the mother of Emma Beth Warmberodt, as Criminal Felony proceedings. Count I was a charge of Child Neglect – failure to provide sanitation and shelter, Count II as to Enabling Child Abuse, and Count III as to Child Neglect was filed by the Washington County District Attorney's office on March 14, 2012. Additional charges of Possession of Controlled Dangerous Substance and Unlawful Possession of Drug Paraphernalia were added to the charges against Ashley Williamson-Mitchell, the biological mother of Emma Beth Warmberodt.

On January 25, 2013, the mother, Ashley Williamson-Mitchell, waived a jury trial and voluntarily entered a blind plea of Guilty. The court accepted the plea, found Ashley Mitchell guilty and ordered a pre-sentence investigation.

On April 3, 2013, Ashley Mitchell was advised of her rights and appeared for sentencing. The court sentenced her to forty-five years with thirty years in Department of Corrections custody as to Count I. She was sentenced to forty-five years with thirty years in Department of Corrections custody as to Count II and III to run concurrently. Ashley Mitchell was also sentenced to two ten year sentences as to Counts IV and V. She was also ordered to register as a violent crime offender.

On April 12, 2013, Ashley Mitchell filed an application to withdraw her plea of guilty and on April 17, 2013, the court denied the motion with exception. On April 24, 2013, the judgment and sentence were issued and a notice of Intent to Appeal was filed.

The On Demand Court Records (ODCR) system documented that Murder in the First Degree-Child Abuse charges were filed against Marcus Mitchell, the stepfather of Emma Beth Warmberodt, on March 14, 2012, in Washington County Court. On October 2, 2012, at the preliminary hearing a motion was made to amend Marcus Mitchell's charges to include Count II Child Neglect, Count III Exposure to Drugs, Count IV Failure to Provide Shelter or Medical treatment, Count V Possession of a Controlled Substance and Count VI Possession of a Controlled Substance.

On January 31, 2013, Marcus Mitchell made a motion to merge Counts I and IV which was denied by the court. On February 1, 2013, the defendant, Marcus Mitchell, made a second motion to merge Counts I and IV. The court again denied the motion. The jury was excused to deliberate at 12:37 p.m. and returned with a verdict at 6:08 p.m. The jurors found the defendant, Marcus Mitchell, guilty of Count I, Murder in the First Degree involving the Death of a Child; guilty as to Count II Child Neglect; guilty as to Count III Child Neglect; guilty of Count IV Child Neglect; not guilty of Count V Possession of a Controlled Dangerous Substance; not guilty as to Count VI Possession of CDS; guilty as to Count VII Possession of CDS; guilty of Count VIII Unlawful Possession of Paraphernalia.

On March 27, 2013, the court sentenced Marcus Mitchell to Life with parole as to Count I Murder in the First Degree; Count II one year; Count III twelve years, Count IV twenty-five years, County VII six months and count VIII six months.

The On Demand Court Records (ODCR) system documented that Juanchellee Fitch, the step-grandmother of Emma Beth Warmberodt, was originally charged with Accessory after the Fact of Murder in the First Degree Death of a Child and Enabling Child Abuse On March 14, 2012. The charges were amended to include a third count of Child Neglect on October 2, 2012. On January 25, 2013, Count I was amended to Obstructing an Officer, a misdemeanor. The defendant, Juanchelle Fitch, entered a waiver of jury trial and a guilty plea. The documentation indicated the State recommended a one year sentence in the Washington County Jail as to Count I, Obstruction. Juanchelle Fitch served time in the county jail from March 9, 2012, until February 6, 2013, which satisfied the recommendation for Count I. She was sentenced to a fifteen year suspended sentence with supervised probation by the Department of Corrections who documented her offense as Omitting to Provide for a Child.

### **Death Incident**

A report was received by the Washington County OKDHS on February 24, 2012. The report documented that fifteen-month-old Emma Beth Warmberodt was deceased and that she had fresh bruises.

The OKDHS documented having observed that Emma Beth had a yellow bruise on her upper forehead that extended into her hairline; bruising above the tip of her nose over both nostrils; bruising across the bridge of her nose; two black eyes; black bruising to the cartilage of her left ear; bruising behind her right ear; small bruises on her face; bloody abrasions and scabbed areas on her chin; bruises on and under her chin; her tongue was bitten, clusters of scabbed sores were in her hair; three round bruises on her chest area; and a long bruise along the diaper area on her right groin.

The Dewey Police Department report documented that when the child was reported to be unresponsive the first responders were unable to intubate the child as rigor had set in and they could not open her jaws.

The Medical Examiner Report documented that the Probable Cause of Death in regard to Emma Beth Warmberodt was internal injuries due to Blunt Chest Trauma. The Manner of Death was documented to be Homicide.

The Dewey Police Department and OKDHS interviewed nine adults who lived in the home and were documented to be Persons Responsible for the Child. The stepfather, Marcus Mitchell, eventually admitted that he may have hit Emma Beth on the back too hard while she was choking. He stated that when he saw the blood that was coming from Emma Beth's nose he became scared because he knew he had hit her too hard. He stated that he then covered the playpen so he would not see Emma Beth and that he was scared but hoping everything was all right. When the officers explained to

Marcus Mitchell that his explanation of Emma Beth's injuries were not consistent with the autopsy findings by the Medical Examiner and did not support his story, he requested the interview be stopped.

The mother, Ashley Mitchell, was told that Emma Beth had been murdered and according to law enforcement documentation she had no observable response to the statement. It was also noted that she did not ask how her child had been murdered. She was confronted about watching the bruising and injuries to her child for over a year and not doing anything about it or reporting it to anyone. When she was asked why she had not reported the injuries to her child, she responded that she was "scared." When asked what she was afraid of she responded she was afraid of Juanchelle Fitch, her mother-in-law and Marcus Mitchell, her spouse. She stated that they scare her because they are "big people and I'm a tiny person." Ashley Mitchell admitted that she did not protect Emma Beth. The OKDHS documented that she was asked if Marcus Mitchell told her about Emma Beth choking or having a bloody nose or that someone had stepped or knelt on Emma Beth's chest and she said no.

### **Prior Involvement with the Department of Human Services**

The family had one prior report which is pertinent to the death of this child as it indicated a lack of care and concern for the wellbeing of Emma Beth. The report was received by the Washington County OKDHS on September 7, 2011. The report alleged that her mother, Ashley Williamson, had told people that she was hiding her baby from law enforcement. An address where Ashley was staying with her boyfriend, Marcus Mitchell, was provided to the OKDHS. The reporter stated that the mother was very inattentive to her eight-month-old child, Emma Beth Warmberodt, and that the child got into things that could harm her. The reporter stated that the child had blisters on her bottom and that at least one blister had been bleeding. The child had not been taken to the physician due to the mother not having a medical card for Emma Beth. It was further alleged by the reporter that there was no food in the home and only a few diapers for Emma Beth.

The OKDHS documented in the report that local law enforcement was contacted and reported they had been requested to do a welfare check on eight-month-old Emma Beth as the baby had a severe diaper rash with blisters. Law enforcement reported that when they reached the residence the mother, Ashley Williamson, said that another relative had taken the child from the babysitter. Law enforcement was notified that the relative was waiting at the police department with the child. Law enforcement returned the child to the mother and reported that the child had a bad diaper rash and other than that appeared to be clean and healthy.

The OKDHS accepted the report as a Priority II Assessment with two days in which to initiate contact with the child victim. Those persons documented as having been interviewed included Ashley Williamson, Marcus Mitchell, one law enforcement officer, one OKDHS Child Welfare staff person, and visual observation of Emma Beth Warmberodt.

The OKDHS documented that Ashley Williamson reported that she had moved from Douglas, Kansas to Oklahoma about three months earlier. She reported that she had been staying with different friends since moving to Oklahoma and that when she left Emma Beth with the babysitter the child did not have a diaper rash. The child was reported to have been with the babysitter for two days and two nights. Ashley Williamson stated that the first night she left her child with the babysitter in order to go out with friends and when she went to get the child the next day, the babysitter asked for the child to stay another day. The mother reported that the next thing she knew, a relative had gone to the babysitter's home and taken the child. She was told that Emma Beth had a bad diaper rash. The child was returned to the mother that night by local law enforcement.

The OKDHS worker documented that the mother showed the worker that she was treating the diaper rash with ointment. The worker documented that the rash was severe, with several areas where the skin was broken or blistered, but those areas did appear to be healing. The worker also documented discussing with the mother the fact that the child was being moved around so much that she lacked any fear of strangers. The mother told the worker that that was just Emma Beth's personality and that she probably got it from her, as she herself was a very social person. The worker documented a discussion with the mother that children Emma Beth's age should have a natural fear of strangers that was a survival mechanism and that children can fail to develop this fear when they are cared for by so many different people.

Ashley Williamson agreed to participate with in-home services and arrangements were made for the worker to meet with Ashley the following week to discuss the services and check on Emma Beth's diaper rash. The worker documented that at that next meeting with the mother on September 11, 2011, the child's diaper rash was almost healed. The OKDHS documented it was determined that the family needed housing assistance and would benefit from Children's Home Based Services (CHBS).

The OKDHS documented a discussion that the worker would have to come back to the home with the paperwork for Ashley to sign to begin CHBS services at another time. The worker documented having attempted to meet with the mother several times to sign the paperwork but was unable to find the mother at home. The worker documented that on the final visit to the home they were told that the mother and child had moved.

The OKDHS also documented that Ashley Williamson had three other children who lived with their biological father. Ashley reported to the OKDHS that during the divorce, the father of the other three children got custody because he was more stable and financially capable of caring for them. Ashley told the OKDHS that she was granted visitation but after her former spouse re-married, he moved and did not tell her where they were and she was not financially able to pursue visitation in court. Ashley was able to produce divorce papers which supported her statements.

The OKDHS documented that Emma Beth was safe. The OKDHS also documented in the Comments/Summary if Safe Section of the Assessment, that there were concerns for Emma Beth's healthy development and suggested participation in CHBS, but the OKDHS had been unable to locate the family since they moved, and the worker was unable to start those services.

**Judicial proceedings prior to the child's death**

The State of Oklahoma had no previous juvenile proceedings in regard to this family prior to Emma Beth's death.